

Interim Decision #1776

MATTER OF VITTORE
In Visa Petition Proceedings

A-14765555

Decided by Regional Commissioner August 23, 1967

Eligibility for preference classification under section 203(a)(6), Immigration and Nationality Act, as amended, as a house painter, for which position "experience on the job" is a prerequisite, is established where beneficiary's work experience includes employment solely as a painter from December 1962 until August 1963, and the Department of Labor has issued a certification attesting to a shortage of like labor in the United States.

IN BEHALF OF PETITIONER: Vincent A. O'Neill, Esquire
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This matter is before the Regional Commissioner on appeal from the decision of the District Director denying the petition for preference immigrant classification of the beneficiary under section 203(a)(6) of the Immigration and Nationality Act, as amended.

The petitioner is a firm engaged in painting of residences. It seeks the services of the beneficiary as a house painter. The beneficiary is a 25-year-old native and citizen of Italy, presently in the United States after admission as a visitor for pleasure. The District Director concluded that the beneficiary's qualifications for the position have not been established.

The job offer, Form ES 575B, is for a painter to prepare walls and woodwork, spackling, sanding, and to apply paint. The minimum education and training for proficiency in this job is given therein as "Experience on the job". The beneficiary showed in the statement of his qualifications, Form ES 575A, that his work experience includes employment solely as a painter from December 1962 until August 1963. His former employer has furnished a letter confirming such employment from December 17, 1962 until August 9, 1963.

The District Director found that the above described experience is not sufficient for the position of painter. He cites the statement in

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the "Occupational Outlook Handbook", a publication of the Department of Labor, 1966-67 Edition, at page 404, that:

Most training authorities, including the national joint labor-management apprenticeship committee for the painting and decorating industry, recommend the completion of a 3-year formal apprenticeship as the best way to become a journeyman painter or paperhanger. . . .

Section 203(a)(6) of the Immigration and Nationality Act provides for a preference in the issuance of visas "to qualified immigrants who are capable of performing skilled or unskilled labor not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States". The beneficiary has the "Experience on the job" specified in the job offer. An individual labor certification was issued on that job offer March 26, 1967 by the Bureau of Employment Security pursuant to section 212(a)(14) of the Act, stating that sufficient United States workers are not available and that the employment of this alien will not adversely affect workers in this country similarly employed. As section 203(a)(6) of the Act includes unskilled laborers as well as skilled laborers, petitioner adequately established the beneficiary's qualifications when he showed the latter meets the requirements specified in the job offer and labor certification. The appeal will therefore be sustained.

It is ordered that the appeal be sustained and the petition approved.